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County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

December 4, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

COUNTERFEIT GOODS STATUS REPORT

On July 3, 2007, your Board instructed the Chief Executive Office (CEO) to convene a Task Force of County Departments involved in land use, code enforcement, nuisance abatement, and business license activities, including, but not limited to the Sheriff, Regional Planning, Public Works, Treasurer and Tax Collector, Health Services, Mental Health, Fire, the District Attorney and County Counsel, for the purpose of examining the County's ability to conduct enforcement activities against the manufacture, distribution, and sale of counterfeit goods in Los Angeles County. The Task Force was further instructed to consult on this matter with appropriate officials from the Cities of Los Angeles and New York and to report back with a proposed enforcement program, including any recommended regulatory or statutory changes.

On September 4, 2007, my Office provided a status report indicating that there had been several meetings with the Third District, the District Attorney, Bureau of Fraud and Corruption, County Counsel, Sheriff, and the recording and motion picture industries. The status report also outlined next steps and advised your Board that we would provide a report on December 3, 2007 with an enforcement program, and recommended regulatory and statutory changes.

Los Angeles Anti-Piracy Task Force

On October 2, 2007, the Task Force met, including staff from:

- County of Los Angeles Offices of Supervisor Yaroslavsky, the District Attorney, Chief Executive Office, County Counsel, and Probation.
- City of Los Angeles Offices of the Mayor, Councilwoman Jan Perry, Councilwoman Wendy Greuel, the City Attorney, and the Los Angeles Police Department.

Also in attendance were representatives of the trademark owners, including the Motion Picture Association of America, Record Industry Association of America, Universal Music, Oakley, and Rolex, as well as the Los Angeles Fashion District, the United States Chamber of Commerce, and the Federal Bureau of Investigation. The meeting allowed all parties to provide updates on their current efforts.

Additionally, the New York Trademark Task Force presented their program, providing background regarding their structure, operations, and nuisance abatement statutes. Under New York's Administrative Code (Title 7) public nuisance is defined and sets forth procedures for abatement allowing prosecutors to obtain injunctions and shut down buildings to abate counterfeiting operations on real properties.

Next Steps

- Develop joint protocols and programs to address civil and criminal enforcement against counterfeit goods activities in Los Angeles County through improved cooperation and coordination of the law enforcement agencies, prosecutors, and the affected industries.
- Develop a City/County public education program including other key stakeholders such as the school districts.
- Organize a forum with judges to discuss the impact of counterfeit goods and raise awareness regarding this issue.

Nuisance Abatement Ordinance

Our September 4, 2007, status report indicated that there would be analysis and review of the feasibility and, if found appropriate, drafting of a comprehensive nuisance abatement ordinance which would declare real property being used for the manufacture, distribution, and sale of counterfeit goods or any related unlawful business occurring on a property in the unincorporated areas of Los Angeles County, a nuisance and subject to civil penalties and abatement.

The County has no specific nuisance abatement ordinance that targets premises used for manufacture, distribution, and sale of counterfeit goods. Therefore, County Counsel is currently preparing a proposed "Los Angeles County Counterfeit Goods Nuisance Abatement Ordinance" for presentation to the Board. Although the ordinance is subject to further refinement and revision, as currently contemplated, it will contain legislative findings and conclusions by the Board of Supervisors establishing that every building or place in the unincorporated County used for the purpose of manufacturing, selling, or possessing for sale, any counterfeit good or item constitutes a public nuisance. The ordinance will authorize the District Attorney and County Counsel to commence civil actions to temporarily and permanently enjoin the nuisance conditions and the persons involved from further conducting, maintaining, or permitting the identified activities at the involved location. The ordinance will also allow the County to initiate civil proceedings to recover civil penalties from any person conducting, maintaining, or permitting the defined public nuisance to occur, including the owner of the building or place. In appropriate circumstances, the ordinance will allow the County to seek appointment of a temporary receiver to manage and operate the involved place or building in conformance with any order or judgment issued by the courts.

Next Step

Finalize the ordinance for Board approval and implementation by the appropriate County departments.

State Legislation

Our status report indicated that there would be consideration and, if found appropriate, drafting of legislation modeled after the statewide New York program that would combat counterfeit goods activities which would include authorization to initiate nuisance abatement and unlawful detainer actions. Such legislation would also consider, and if appropriate, increase criminal penalties for repeat offenders. In the interim, where circumstances warrant, the County would utilize the California Unfair Competition Law to combat illegal businesses that engage in the sale of counterfeit goods.

There are drug and red light abatement statutes under the Health and Safety Code and Penal Code that have procedures for the abatement of repeated and continuous criminal activities which cause a public nuisance (drugs, prostitution, and gambling), but they are narrowly tailored and do not include any provisions for piracy and counterfeiting. Therefore, District Attorney staff is currently drafting a proposal for an addition to the California's Business and Professions Code which lays out a comprehensive set of nuisance abatement and unlawful detainer remedies for businesses and locations involved in the manufacture, sale, or possession of counterfeit goods. The system envisioned is similar to the remedies used successfully in New York City and is patterned on equivalent remedies now in use in the narcotics abatement area in California.

Next Steps

- Finalize proposed addition to the California's Business and Professions Code after appropriate review by the District Attorney, County Counsel, and the CEO, Intergovernmental Relations Branch.
- Seek legislative sponsorship of the Code amendment.

Nuisance Abatement Teams (NATs)

The September 4, 2007 status report indicated that there would be an examination of the use of NATs to enforce the County building, fire, health and zoning laws on properties that harbor counterfeit goods in the unincorporated areas of Los Angeles County on a case-by-case basis. The NAT departments that would conceivably be involved include the Sheriff, District Attorney, Public Works, Regional Planning, Public Health, and Fire. Enactment of the ordinance and State legislation identified above will provide the NATs potent additional tools to combat counterfeit activities on the real properties.

Each Supervisor
December 4, 2007
Page 4

Next Step

Prepare protocols and determine fiscal requirements, as appropriate, of the NAT departments for enforcement of the counterfeit goods program.

We anticipate that a status report and ordinance will be submitted to your Board by February 2008. The report will provide an update on the next steps identified above. If you have any questions regarding the status report, please feel free to contact me or Lari Sheehan at (213) 893-2477, or via e-mail at lsheehan@ceo.lacounty.gov

WTF:LS
DSP:ib

- c: Executive Officer, Board of Supervisors
- County Counsel
- District Attorney
- Sheriff
- Fire Chief
- Chief Probation Officer
- Director and Chief Medical Officer of Health Services
- Director and Health Officer of Public Health
- Director of Mental Health
- Director of Planning
- Director of Public Works
- Treasurer and Tax Collector
- Mayor of the City of Los Angeles
- Los Angeles City Attorney
- Los Angeles Councilwoman Jan Perry
- Los Angeles Councilwoman Wendy Greuel
- Chief, Los Angeles Police Department
- U.S. Chamber of Commerce
- Federal Bureau of Investigation
- President and CEO, Los Angeles County Economic Development Corporation
- Recording Industry Association of America
- Motion Picture Association of America
- Los Angeles Fashion District



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WILLIAM T FUJIOKA
Chief Executive Officer

September 4, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
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Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name of the Chief Executive Officer.

Board of Supervisors
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COUNTERFEIT GOODS STATUS REPORT

On July 3, 2007, the Board instructed the Chief Executive Office to convene a Task Force of County Departments involved in land use, code enforcement, nuisance abatement and business license activities, including but not limited to the Sheriff, Regional Planning, Public Works, Treasurer and Tax Collector, Health, Mental Health, Fire, District Attorney and County Counsel, for the purpose of examining the County's ability to conduct enforcement activities against the manufacture, distribution and sale of counterfeit goods in Los Angeles County. The Task Force was further instructed to consult on this matter with appropriate officials from the Cities of Los Angeles and New York and to report back with a proposed enforcement program, including any recommended regulatory or statutory changes.

Status

The Chief Executive Office (CEO) conducted a meeting on July 31, 2007 with the Third District, the District Attorney's (DA) Bureau of Fraud and Corruption, and County Counsel. At the meeting, background information was presented on the Los Angeles Anti-Piracy Task Force and the New York Trademark Task Force for the purpose of determining potential approaches the County may want to undertake to deal with enforcement and prosecution of counterfeit goods on the criminal and civil level. A second meeting was held on August 23, 2007 to broaden the discussion to include the Sheriff and the recording and motion picture industries. A summary of findings from the two meetings is attached.

Next Steps

- Initiate meetings with the Los Angeles Anti-Piracy Task Force, including the recording and motion picture industry, and develop joint protocols to address civil and criminal enforcement against counterfeit goods activities in Los Angeles County through improved cooperation and coordination of the law enforcement agencies, prosecutors and the affected industries.

Each Supervisor
September 4, 2007
Page 2

- Complete the feasibility analysis, and if appropriate, draft a comprehensive nuisance abatement ordinance which would declare real property in the unincorporated area of Los Angeles County that's being used for the manufacture, distribution and sale of counterfeit goods or any unlawful business occurring on a property, a nuisance and subject to civil penalties and abatement.
- Consider, and if appropriate, draft legislation modeled after the statewide New York program that combats counterfeit goods activities by authorizing initiation of nuisance abatement and unlawful detainer actions.
- Consider, and if appropriate, draft legislation that would increase criminal penalties for repeat offenders.
- Where circumstances warrant, utilize the California Unfair Competition Law to combat illegal businesses that engage in the sale of counterfeit goods.
- On a case-by-case basis, utilize NATs to enforce County's building, fire, health and zoning laws on properties that harbor counterfeit goods in the unincorporated areas of Los Angeles County.

We anticipate that a final report will be submitted to your Board by December 3, 2007. The report will provide an enforcement program and recommended regulatory and statutory changes. If you have any questions regarding the status report, please feel free to contact me or Lari Sheehan at (213) 893-2477.

WTF:LS
DSP:ib

Attachment

c: Executive Officer, Board of Supervisors
 County Counsel
 District Attorney
 Sheriff
 Fire Chief
 Director of Health Services
 Director of Mental Health
 Director of Planning
 Director of Public Health
 Director of Public Works
 Treasurer and Tax Collector
 President and CEO, Los Angeles County Economic
 Development Corporation
 Recording Industry Association of America
 Motion Picture Association of America



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

RAYMOND G. FORTNER, JR.
County Counsel

August 29, 2007

TELEPHONE
(213) 974-1853
FACSIMILE
(213) 687-7337
TDD
(213) 633-0901

TO: DOROTHEA PARK
Manager, Chief Executive Office

FROM: SARI J. STEEL *SJS*
Senior Deputy County Counsel

THOMAS A. PAPAGEORGE *TAP*
Head Deputy
Consumer Protection Division
District Attorney's Office

RE: Interim Report Regarding the County's Code
Enforcement Activities Against Counterfeit Goods

As members of the task force convened by your office to examine the County's ability to conduct enforcement activities against the manufacture, distribution, and sale of counterfeit goods in Los Angeles County, we are providing you with an interim status report of a summary of our findings to date.

I. County's Ability To Combat the Manufacture, Distribution, and Sale of Counterfeit Goods

No county ordinances currently prohibit the manufacture, distribution, and sale of counterfeit goods in the unincorporated areas of the County of Los Angeles. On the state level, several California Penal Code sections sanction such conduct. Additionally, California Unfair Competition Law may be utilized by the District Attorney's Office to combat illegal businesses that engage in counterfeiting various goods.

A. *Criminal Prosecutions - District Attorney*

The District Attorney's Office has a longstanding commitment to the enforcement of counterfeiting and trademark laws. In 2006, the District Attorney's Office filed a total of 365 misdemeanor and felony cases in which at least one counterfeiting or piracy charge was filed pursuant to the California Penal Code. Of this total, 71 percent (265 cases) were felony filings, and 29 percent (105 cases) were misdemeanor filings. The majority of the cases (354) were prosecuted through the District Attorney's line operations, which consist of the 26 Central Operations and Branch & Area offices which handle all criminal cases which are not assigned to special units.

B. *Civil/Administrative - Utilization of the County's Nuisance Abatement Teams (NATs) to Target Landlord/Property Owners Who Facilitate or Allow the Illegal Business Activity of Counterfeiting to Occur on Their Property*

The NATs do not have the authority to directly target manufacture, distribution, and sale of counterfeit goods. Their primary purpose is to enforce the County building, fire, health, and zoning laws on properties located in the unincorporated areas of the County of Los Angeles. The NATs' enforcement of County Code violations on properties where pirated goods are sold would not be the most efficient way to eliminate the counterfeiting problem, because abatement would be incidental, at best; even if the Code violations are corrected, the piracy problem may remain.

The above concerns could probably be remedied by a comprehensive nuisance abatement ordinance, which would declare real property being used for the manufacture, distribution, or sale of counterfeit goods, or any unlawful business occurring on a property, a nuisance and subject to abatement. We are looking into the County's ability to develop an ordinance similar to the one in New York.

II. New York City's Programs

Discussions with New York government officials and research of New York local and state law have disclosed two legal tools their law and code enforcement agencies successfully use to combat the manufacture, distribution, and sale of counterfeit goods. One, the City of New York municipal nuisance abatement ordinance, and two, the New York Real Property Actions and Proceedings Law. These two comprehensive laws allow local law and code enforcement agencies to target landlords and their properties in an effort to eliminate safe-havens for counterfeiters.

A. *New York's Local Nuisance Abatement Program*

The City of New York has a comprehensive Nuisance Abatement Law, which defines use of any real property for criminal purposes, building and safety, zoning, health and fire code violations, a public nuisance. Consequently, this definition allows their prosecutors to abate the manufacture, distribution, and sales of counterfeit goods as a nuisance.

B. *New York State's Narcotics Eviction Program*

This Program which was created and is administered by the New York District Attorney's Office was initially created to address the City's problem with drug dealing in apartment buildings. The arrest and prosecution of drug trafficking tenants resulted in them being replaced by similar offending tenants which allowed the problem to continue. Commencing in 1988, the New York District Attorney created the Narcotics Eviction Program which utilizes its civil statute, section 715 of the New York State Real Property Actions and Proceedings law to evict tenants, usually with the cooperation of the landlords, from apartments or commercial spaces where drug dealing is occurring. This statute was enacted in 1868 to abate "bawdy house" activity, and was amended in 1947 to include "any illegal trade, business or manufacture." The Narcotics Eviction Program has successfully used the law against illegal businesses involved in the manufacture, distribution, and sales of counterfeit goods.

Because the statute authorizes a summary court proceeding which is similar to California's Unlawful Detainer Law found in California Code of Civil Procedure section 1161, the cases are processed and resolved much more expeditiously than a typical civil action. Tenants engaged in unlawful business activity can be evicted from the property summarily. Although the focus of the enforcement is on evicting the tenant who's engaging in the illegal business activity at the location, landlords can be jointly and severally liable for civil penalties if their cooperation in the eviction process is not forthcoming. The evictions are based on a preponderance of evidence and no arrest is necessary to meet this standard of proof. Trials are rarely delayed or postponed and typically last only 15 minutes to an hour. Further, because the landlord/property owners usually cooperate and initiate the action themselves, the New York District Attorney's Office does not have to commence the eviction action, which the law otherwise gives them standing to do.



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WILLIAM T FUJIOKA
Chief Executive Officer

February 29, 2008

To: Supervisor Yvonne B. Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

Board of Supervisors
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COUNTERFEIT GOODS STATUS REPORT NO. 2

On July 3, 2007, your Board instructed the Chief Executive Office to convene a Task Force of County Departments involved in land use, code enforcement, nuisance abatement, and business license activities, including, but not limited, to the Sheriff, Regional Planning, Public Works, Treasurer and Tax Collector, Health Services, Mental Health, Fire, the District Attorney and County Counsel, for the purpose of examining the County's ability to conduct enforcement activities against the manufacture, distribution, and sale of counterfeit goods in Los Angeles County. The Task Force was further instructed to consult on this matter with appropriate officials from the Cities of Los Angeles and New York and to report back with a proposed enforcement program, including any recommended regulatory or statutory changes.

On December 4, 2007, our status report indicated that we would be working towards finalizing a Los Angeles County Counterfeit Goods Nuisance Abatement Ordinance to submit to the Board for approval and implementation by the appropriate code enforcement departments including Sheriff, District Attorney, Public Works, Regional Planning, Public Health, Fire, and Treasurer and Tax Collector. The ordinance would declare any real property being used for the manufacture, distribution, and sale of counterfeit goods occurring on a property in the unincorporated areas of Los Angeles County, a nuisance and subject to civil penalties and abatement. It is the intention of County Counsel and my Office to file this ordinance for approval in April 2008.

Each Supervisor
February 29, 2008
Page 2

Additionally, the District Attorney has drafted legislation modeled after the statewide New York program that would combat counterfeit goods activities which would include authorization to initiate nuisance abatement and unlawful detainer actions. Additional legislation would consider, and if appropriate, increase criminal penalties for repeat offenders. The District Attorney is finalizing these proposed additions to the California's Business and Professions Code and the Penal Code and will be seeking legislative sponsorship for both Code amendments.

If you have any questions regarding the status report, please feel free to contact me or Dorothea Park at (213) 974-4283, or via e-mail at dpark@ceo.lacounty.gov.

WTF:LS
DSP:os

c: Executive Officer, Board of Supervisors
County Counsel
District Attorney
Sheriff
Fire Chief
Chief Probation Officer
Director and Chief Medical Officer of Health Services
Director and Health Officer of Public Health
Director of Mental Health
Director of Planning
Director of Public Works
Treasurer and Tax Collector



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WILLIAM T FUJIOKA
Chief Executive Officer

May 6, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

COUNTERFEIT GOODS NUISANCE ABATEMENT LAW TITLE 13, CHAPTER 13.90 (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

Request that the Board adopt a Counterfeit Goods Nuisance Abatement ordinance that will apply to the unincorporated areas of Los Angeles County for the purpose of addressing problems associated with properties used for the manufacture, distribution, and sale of counterfeit goods.

IT IS RECOMMENDED THAT YOUR BOARD:

Adopt an ordinance adding Chapter 13.90 to Title 13 – Public Peace, Morals, and Welfare of the Los Angeles County Code to establish the County's Counterfeit Goods Nuisance Abatement Law.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On July 3, 2007, your Board instructed the Chief Executive Officer (CEO) to convene a task force of County departments involved in land use, code enforcement, nuisance abatement, and business license activities, including, but not limited to, the Sheriff, Regional Planning, Public Works, Treasurer and Tax Collector, Health Services, Mental Health, Fire, the District Attorney and County Counsel, for the purpose of examining the County's ability to conduct enforcement activities against the manufacture, distribution, and sale of counterfeit goods in unincorporated areas of Los Angeles County. Your Board further instructed that the CEO consult on this matter with appropriate officials from the Cities of Los Angeles and New York and report back to your Board with a proposed enforcement program, including any recommended regulatory or statutory changes.

Board of Supervisors
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Fifth District

As an outcome of meetings with the Task Force and the Cities of Los Angeles and New York, it was determined that an amendment to the Los Angeles County Code providing for the legal restraint or enjoining of property owners permitting counterfeit operations on their property would be a significant tool by which County authorities may successfully address problems associated with properties used for the manufacture, distribution, and sale of counterfeit goods in the unincorporated areas of the County of Los Angeles. The use of unincorporated area properties for activities related to counterfeit goods substantially interferes with property values and impedes the activities of businesses that adhere to State and Federal patent and trademark laws. Based on the detrimental impact to the economy and quality of life of the County unincorporated constituents, counterfeit goods result in a significant public nuisance.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we provide Fiscal Responsibility (Goal 4) and address Community Services (Goal 6). Adoption of this ordinance will allow the County to enhance the quality of life for residents and businesses in the unincorporated areas.

FISCAL IMPACT/FINANCING

The civil penalties collected will be paid to the County treasury. The penalties in the judgment will not exceed \$1,000 for each counterfeit of a mark registered with the State or Federal Patent and Trademark Office manufactured, sold or possessed on the property. Additionally, the County will be entitled to recover legal fees and abatement costs, including administrative costs, from the property owner. If there is a subsequent judgment within a two-year period, the property owner may be required to pay triple the costs of abatement.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Adoption of the ordinance will allow the District Attorney or County Counsel to initiate a civil proceeding to temporarily restrain and permanently enjoin those persons that conduct, maintain, or permit the sale or manufacture of counterfeit goods. Moreover, the ordinance will allow the Court to issue an order directing pre-judgment and/or post-judgment closing of the property by the Sheriff for up to one year in order to abate the counterfeit activity. The closing order may allow the Sheriff to seize and remove from the property all material and equipment used in the creation of the counterfeit goods and sell such material and equipment. The proceeds from the sale will be used to offset the costs of removal and sale of the counterfeit goods, costs associated with keeping the property closed, and the costs of the County's action. The balance, if any, shall be paid to the property owner. Further, the ordinance will allow the Court to vacate a permanent closing order if the property owner posts a bond and provides to the Court that the nuisance has been abated. Such vacating order must include a provision authorizing the County to inspect the property periodically without notice to ensure that the counterfeit goods activity has not resumed.

Additionally, the District Attorney has drafted legislation modeled after the statewide New York program that would combat counterfeit goods activities which would include authorization to initiate nuisance abatement and unlawful detainer actions. This additional legislation would consider, and if appropriate, increase criminal penalties for repeat offenders. The District Attorney has finalized these proposed additions to the California's Business and Professions Code and the Penal Code and will be seeking legislative sponsorship for both Code amendments.

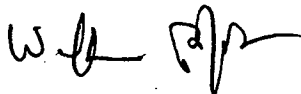
IMPACT ON CURRENT SERVICES (OR PROJECTS)

The ordinance is a tool that will be utilized to combat the illegal manufacture and sale of counterfeit goods in the unincorporated areas of Los Angeles County. The impact of lost sales for the retail sector in Los Angeles County is estimated in the billions of dollars resulting in an impact on employment. State and local tax revenue loss to the County is estimated at over \$483 million.

CONCLUSION

Please send one signed copy of the Board letter and ordinance each to the Chief Executive Office, Office of Unincorporated Area Services, County Counsel, Sheriff, and the District Attorney.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF: LS
DSP:os

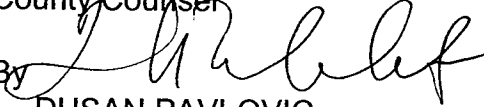
Attachment (1)

- c: County Counsel
- District Attorney
- Sheriff
- Acting Director of Public Works
- Auditor-Controller
- Director and Chief Medical Officer of Health Services
- Director and Health Officer of Public Health
- Director of Mental Health
- Director of Regional Planning
- Fire Chief
- Treasurer and Tax Collector

ANALYSIS

This ordinance adds Chapter 13.90 to Title 13 – Public Peace, Morals, and Welfare of the Los Angeles County Code to establish the County's Counterfeit Goods Nuisance Abatement Law to address problems associated with properties used for the manufacture, distribution, and sale of counterfeit goods in the unincorporated areas of the County of Los Angeles.

RAYMOND G. FORTNER, JR.
County Counsel

By 
DUSAN PAVLOVIC
Deputy County Counsel
Property Division

DP:sh

01/28/08 (requested)

03/18/08 (revised)

ORDINANCE NO. _____

An ordinance adding Chapter 13.90 to Title 13 – Public Peace, Morals, and Welfare of the Los Angeles County Code to establish the County's Counterfeit Goods Nuisance Abatement Law to address problems associated with properties used for the manufacture, distribution, and sale of counterfeit goods in the unincorporated areas of the County of Los Angeles.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 13.90 is hereby added to read as follows:

Chapter 13.90

COUNTERFEIT GOODS NUISANCE ABATEMENT LAW

- | | |
|------------------|---|
| 13.90.010 | Legislative findings. |
| 13.90.020 | Short title. |
| 13.90.030 | Person and property defined. |
| 13.90.040 | Public nuisance defined. |
| 13.90.050 | Maintaining nuisance unlawful. |
| 13.90.060 | Remedies. |
| 13.90.070 | Temporary closing order; defendant's remedies. |
| 13.90.080 | Violation of injunction; penalty. |
| 13.90.090 | Attorney's fees. |
| 13.90.100 | Abatement cost recovery. |
| 13.90.110 | Treble damages. |
| 13.90.120 | Nonexclusive remedies. |

13.90.010 Legislative findings.

The board of supervisors of the county of Los Angeles finds that the use of properties within the unincorporated areas of the county for the manufacturing, distributing, selling, or possessing for sale of counterfeit goods substantially interferes with the interest of the public in the quality of life and community peace, lawful commerce in the county, property values, and is detrimental to the public health, safety, and welfare of the county's citizens, its businesses, and its visitors. As a result, the board of supervisors finds that such properties constitute a public nuisance. This chapter provides nonexclusive procedures to address such public nuisances, which are supplemental to any other remedies available under county, state, or federal law.

13.90.020 Short title.

This chapter shall be known as the "Counterfeit Goods Nuisance Abatement Law."

13.90.030 Person and property defined.

"Person" means any individual, partnership, limited liability company, corporation, joint venture, association, estate, trust, unincorporated organization, or any other legal entity.

"Property" means any real property located in the unincorporated areas of the county of Los Angeles, including any buildings, structures or other improvements thereon.

13.90.040 Public nuisance defined.

Every property used for the purpose of willfully manufacturing, intentionally selling, or knowingly possessing for sale any counterfeit of a mark registered with the Secretary of State or registered on the Principal Register of the United States Patent and Trademark office is a public nuisance which may be restrained, enjoined, abated, and prevented pursuant to the provisions of this chapter.

13.90.050 Maintaining nuisance unlawful.

No person shall intentionally conduct, or knowingly maintain or permit the nuisance defined in Section 13.90.040 on any property in the unincorporated areas of the county of Los Angeles. Each day any such nuisance continues to exist shall be a new and separate offense.

13.90.060 Remedies.

A. Restraining order and injunction. The district attorney or the county counsel may bring and maintain a civil proceeding in the name of the county of Los Angeles in the superior court to abate and prevent a public nuisance within the scope of this chapter, and temporarily restrain, preliminarily enjoin, and/or permanently enjoin the person or persons intentionally conducting, or knowingly maintaining or permitting the public nuisance from further conducting, maintaining, or permitting such public nuisance. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this chapter.

1. A judgment awarding a permanent injunction pursuant to this chapter may direct the closing by the sheriff of the property whereon the nuisance is

being conducted, maintained, or permitted to the extent necessary to abate the nuisance, and shall direct the sheriff to post a copy of the judgment and a printed notice of such closing at the property. Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment prescribed by law, shall be a misdemeanor, which shall be punishable, on conviction, by a fine of not more than \$1,000 or by imprisonment not exceeding six months, or by both, provided such judgment contains therein a notice of such penalty. The closing directed by the judgment shall be for such period as the court may direct, but in no event shall the closing be for a period of more than one year from the posting of the judgment and notice provided for in this section. If the owner files a bond in the amount equal to the full assessed value of the property ordered to be closed and submits proof to the court that the nuisance has been abated and will not be created, maintained, or permitted for such period of time as the property has been directed to be closed in the judgment, the court may vacate the provisions of the judgment that direct the closing of the property. A closing of such property by the sheriff pursuant to the provisions of this section shall not constitute an act of possession, ownership, or control of the closed property by the sheriff.

2. A judgment awarding a permanent injunction pursuant to this chapter may also include an abatement order directing the sheriff to seize and remove from the property all material, equipment, and instrumentalities used in the creation and/or maintenance of the public nuisance and shall direct the sale by the sheriff of such personal property in the manner provided for the sale of chattels under execution.

The net proceeds of any such sale shall be used to first defray all the lawful expenses incurred by the county, including, but not limited to, fees and costs of the removal and sale, allowances and costs of keeping the property closed, and costs of the county's action. The balance, if any, shall be paid to the property owner.

B. In rem jurisdiction. The district attorney or the county counsel may name as a defendant, in any action under this chapter, the property whereon the public nuisance is being intentionally conducted, or knowingly maintained or permitted, by describing it by assessor's parcel number and street address and identifying at least one of the owners of some part of or interest in the property.

1. In rem jurisdiction shall be complete over the property whereon the public nuisance is being conducted, maintained, or permitted by affixing the summons to the principal door or entrance of the property, or other visible, conspicuous place thereon, and by mailing the summons by certified or registered mail, return receipt requested, to one of the owners of some part of or interest in the property.

C. Civil penalty. The district attorney or the county counsel shall be authorized to bring and maintain a civil proceeding in the name of the county of Los Angeles, in the superior court, to recover a civil penalty for a public nuisance defined in Section 13.90.040 of this chapter, in the manner provided in this chapter.

1. If upon a judgment in an action under this chapter a finding is made that the defendant has intentionally conducted, or knowingly maintained or permitted a public nuisance defined in this chapter, a penalty, to be included in the judgment, may be awarded in an amount not to exceed \$1,000 for each counterfeit of a mark

registered with the Secretary of State or registered on the Principal Register of the United States Patent and Trademark office manufactured, sold, or possessed on the property. Upon recovery, such penalties shall be paid to the treasurer of the county of Los Angeles.

2. In assessing the amount of the civil penalty under this chapter, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the action, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, and the defendant's assets, liabilities, and net worth.

D. Temporary closing order. A temporary closing order not to exceed a period of one year may be granted on a hearing for a temporary restraining order or a preliminary injunction where it appears to the satisfaction of the court that a public nuisance within the scope of this chapter is being intentionally conducted, or knowingly maintained or permitted, that the public health, safety, or welfare immediately requires the granting of a temporary closing order, and that a prior order or injunction did not result in the abatement of the nuisance.

1. If on an application for a temporary restraining order or motion for a preliminary injunction, the district attorney or the county counsel show to the satisfaction of the court that a public nuisance within the scope of this chapter is being intentionally conducted, or knowingly maintained or permitted, that the public health, safety, or welfare immediately requires a temporary closing order, and that a prior order or

injunction did not result in the abatement of the nuisance, a temporary order closing the whole or any part of such nuisance property may be granted, pending order of the court granting or refusing the permanent injunction and until further order of the court, but in no event more than one year.

2. A temporary closing order may direct the sheriff serving a temporary closing order to forthwith make and return to the court an inventory of personal property situated at the property and used in conducting, maintaining, or permitting a public nuisance within the scope of this chapter and permit the sheriff to enter upon the property for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory including, but not limited to, photographing such personal property.

3. The sheriff serving a temporary closing order at the property shall, upon service of the order, command all persons present on the property to vacate the premises forthwith. Upon the property being vacated, the premises shall be securely locked and the keys turned over to the sheriff. If the fee owner, lessee, or agent is not at the property when the order is being executed, the sheriff shall securely padlock the premises and retain the keys until further order of the court.

4. Upon service of a temporary closing order, the sheriff shall post a copy thereof upon one or more of the principal doors or entrances, or at another visible, conspicuous place, on the property where the public nuisance is being conducted, maintained, or permitted. In addition, where a temporary closing order has been

granted, the sheriff shall affix upon one or more of the principal doors or entrances, or at another visible, conspicuous place, on such property, a printed notice that the premises have been closed by court order, which notice shall contain the legend "CLOSED BY COURT ORDER" in block lettering of sufficient size to be observed by anyone intending or likely to enter the property, the date of the order, the name of the court that issued the order, and the name of the office or agency posting the notice. Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be a misdemeanor, which shall be punishable on conviction by a fine of not more than \$1,000 or by imprisonment not exceeding six months, or by both, provided such order or notice contains therein a notice of such penalty.

5. Any person who intentionally violates a temporary closing order issued pursuant to this section shall be liable for a civil penalty not to exceed \$1,000 for each violation. The penalty imposed by this section shall be in addition to any other penalties imposed by law.

13.90.070 Temporary closing order; defendant's remedies.

A. A temporary closing order shall be vacated, upon notice to the district attorney or the county counsel, if the defendant shows to the satisfaction of the court, by affidavit and such other proof as may be submitted, that the public nuisance has been abated and will not be created, maintained, or permitted for such period of time as the property has been directed to be closed in the order; or in the alternative, the defendant posts a bond in an amount equal to the full assessed value of the property

where the public nuisance is being conducted, maintained, or permitted, or in such other amount as may be fixed by the court, and shows to the satisfaction of the court, by affidavit and such other proof as may be submitted, that the public health, safety and welfare will be adequately protected during the pendency of the action. The Bond and Undertaking Law of the Code of Civil Procedure, sections 995.010 et seq., shall be applicable to the provisions of this chapter requiring the posting of a bond.

B. An order vacating a temporary closing order shall include a provision authorizing agencies of the county of Los Angeles to inspect the property, which is the subject of an action pursuant to this chapter, periodically without notice, during the pendency of the action for the purpose of ascertaining whether or not the public nuisance has been resumed. Intentional disobedience of or resistance to an inspection provision of an order vacating a temporary closing order, in addition to any other punishment prescribed by law, shall be a misdemeanor, which shall be punishable, on conviction, by a fine of not more than \$1,000 or by imprisonment not exceeding six months, or by both.

13.90.080 Violation of injunction; penalty.

Any person who intentionally violates any injunction issued pursuant to this chapter shall be liable for a civil penalty of \$1,000 for each violation. The penalty imposed by this section shall be in addition to any other penalties imposed by law.

13.90.090 Attorney's fees.

The prevailing party shall be authorized to recover attorney's fees in any action or special proceeding commenced to enforce the provisions of this chapter. Recovery

of attorney's fees shall be limited to those actions or special proceedings in which the county elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees. In no action or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding.

13.90.100 Abatement cost recovery.

A. In any action to abate a nuisance pursuant to this chapter, the owner of the property upon which the nuisance is found to exist shall be liable for all costs of abatement incurred by this county, including but not limited to, administrative costs and any and all costs incurred in the physical abatement of the nuisance.

13.90.110 Treble damages.

In addition to the penalties herein provided, upon entry of a second or subsequent judgment within a two-year period finding that an owner of property is responsible for violation of this chapter, the court may order the owner to pay treble the costs of abatement.

13.90.120 Nonexclusive remedies.

The remedies provided in this chapter are nonexclusive and they shall not exclude the county's use of any other remedy provided by law for the protection of the health, safety, and welfare of the people of the county of Los Angeles.

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